

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

***THIS DOCUMENT RELATES TO
THE FOLLOWING CASES:***

***Bondurant v. Johnson & Johnson,
No. 3:19-cv-14366***

***Converse v. Johnson & Johnson,
No. 3:18-cv-17586***

***Gallardo v. Johnson & Johnson,
No. 3:18-cv-10840***

***Judkins v. Johnson & Johnson,
No. 3:19-cv-12430***

***Newsome v. Johnson & Johnson,
No. 3:18-cv-17146***

***Rausa v. Johnson & Johnson,
No. 3:20-cv-02947***

MDL No. 16-2738 (MAS) (RLS)

**PLAINTIFFS' STEERING COMMITTEE'S SUPPLEMENTAL
STATEMENT OF DISPUTED MATERIAL FACTS IN OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Civil Rule 56.1, the Plaintiffs' Steering submits this supplemental statement of disputed material facts in opposition to Defendants' Motion for Summary Judgment.

1. Regulatory authorities and international professional scientific organizations have concluded that cosmetic talc powder—with or without asbestos—can cause ovarian cancer. (Ex. 10,¹ Health Canada, Screening Assessment (April 2021) at p. iii, 36, 43, 45; Ex. 11, Stayner et al., *Carcinogenicity of Talc and Acrylonitrile*, The Lancet (July 5, 2024); Ex. 12, IARC Monographs Evaluate the Carcinogenicity of Talc and Acrylonitrile: Questions and Answers (July 5, 2024); Ex. 13, NIH/NIEHS Environmental Factor, *Genital talc use may be linked to increase risk of ovarian cancer* (June 2024); 88 Fed. Reg. 47782, 47790 (July 25, 2023) (to be codified at 40 C.F.R. pt. 704); 89 Fed. Reg. 21970, 21970 & 21973 (2024); Ex. 14, Phung M et al., *Effects of risk factors for ovarian cancer in women with and without endometriosis*, 118 Fertility and Sterility 960 (Nov. 2022); Ex. 15, Terry et al., *Genital Powder Use and Risk of Ovarian Cancer: A Pooled Analysis of 8,525 Cases and 9,859 Controls*, 6(8) Cancer Prev. Res. 811 (2013).)

2. The FDA, NIH, EPA and similar agencies have acknowledged that talc mined for consumer products may contain asbestos. (86 Fed. Reg. 74088 (Dec. 19,

¹ All exhibits referenced herein are certified in the Declaration of Michelle Parfitt, filed contemporaneously herewith.

2021) (“talc has been implicated as a potential source of asbestos exposure”); 88 Fed. Reg. 47782, 47784 (Jul. 25, 2023) (“asbestos is being mined or milled . . . as an impurity” in talc); 89 Fed. Reg. 21970, 21970, 21973 (Mar. 28, 2024) (“Additionally, some talc deposits and articles containing talc have been shown to contain asbestos.”); Ex. 18, FDA, Johnson’s Baby Powder voluntarily recalled after testing positive for asbestos (Oct. 18, 2019); Ex. 19, IWGACP, Preliminary Recommendations on Testing Methods for Asbestos in Talc and Consumer Products Containing Talc (Jan. 6, 2020), at 2; Ex. 20, Appendices to White Paper: IWGACP Scientific Opinion on Testing Methods for Asbestos in Cosmetic Products Containing Talc (Dec. 2021), App’x F, at 55; Ex. 21, Wentzensen & O’Brien, Talc, Body Powder, and Ovarian Cancer: A Summary Of the Epidemiologic Evidence, 163 Gynecol. Oncol. 199 (2021), at 200 (“While talc products since the 1980s have been considered asbestos-free, recent reports have suggested that low-level contamination of talc with asbestos fibers may have persisted in some cosmetic products.”)).

3. Talcum powder generally, and Defendants’ products specifically, contain known carcinogens, including asbestos, fibrous talc, and heavy metals.

4. There is a consistent association, across decades of epidemiologic studies of different designs and with different researchers involving different patient

populations that have demonstrated genital talc use is associated with a risk of epithelial ovarian cancer.

5. The increased risk of epithelial ovarian cancer seen in these studies is between 20–60%.

6. There is evidence of a dose-response relationship, because risk increases with both frequency and duration of genital talc use.

7. It is biologically plausible that genital talcum powder causes ovarian cancer based upon evidence that talcum powder can migrate from the perineal area, through the open female genital tract, and reach the fallopian tubes and ovaries where it creates an inflammatory response. (See, e.g., Ex. 24, Ogunsina, et al., Association of genital talc and douche use in early adolescence or adulthood with uterine fibroid diagnoses, 229 Am. J. Obst. & Gyn. 665 (Dec. 2023) (talc can migrate, and “once deposited onto epithelial cells, it can cause chronic inflammation, leading to a series of mutagenic events, and this effect is worse in talc contaminated with asbestos, a known carcinogen.”)).

8. Clear cell ovarian cancer is linked to talc in scientific literature. (See, e.g., Ex. 15, Terry K, Karageorgi S, Shvetsov Y, Merritt M, Lurie G, Thompson P, Carney M, et al, Genital Powder Use and Risk of Ovarian Cancer: A Pooled Analysis of 8,525 Cases and 9,859 Controls, Cancer Prevention Research (Philadelphia, Pa.) 6, no. 8 (August 2013): 811–21.)

9. Endometrioid ovarian cancer is linked to talc in scientific literature.
(*See, e.g., id.*)

10. Drs. Longo and Rigler found asbestos in 75-80% of the talc samples from the time period during which the bellwether plaintiffs used talcum powder products. (Ex. 31, William E. Longo, Jr., Expert Report, MDL - Johnson's Baby Powder Application and Exposure Container Calculations for Six Ovarian Cancer Victims Bellwether Cases.)

11. As early as 1966, Defendants were aware that talcum powder had health risks.

12. When Defendants' Talcum Powder Products left Defendants' hands, the Products were contaminated with the unintended presence of asbestos, heavy metals (nickel, cobalt, chromium, etc.), and other toxic constituents such as fragrance chemicals.

13. For decades while Defendants sold talc-based powder products, a feasible and safer alternative to talc existed (i.e. cornstarch), which would have eradicated any end user's potential exposure to asbestos, heavy metals, and other toxic minerals.

14. Cornstarch powders have been sold and marketed for the same uses as the Defendants' Products with nearly the same effectiveness as talcum powders.

15. Since the 1960s, J&J and its outside consultants have continued to find asbestos in JBP and its mine sources, including chrysotile and amphibole asbestos, using multiple testing methods, including Polarized Light Microscopy (PLM) and Transmission Electron Microscopy (TEM). (*See* Ex. 41, Hopkins Deposition (J&J Corporate Representative) (chart of samples with asbestos)).

16. Beginning in the 1930s, medical and scientific literature emerged indicating talc was commonly, if not invariably, contaminated with substances known or suspected of being carcinogenic, such as asbestos, silica, quartz, nickel, and arsenic. (2d Am. Compl. ¶123.)

17. Dr. Longo tested several bottles of Johnson's Baby Powder that were in Ms. Newsome's possession and had been used by her, and he detected the presence of asbestos in those samples. (Ex. 47, MAS Project M71722, Talcum Powder Analysis, Tamara Newsome – Johnson's Baby Powder Containers at 3.)

18. Ms. Converse first connected the possibly of her cancer to her use of Defendants' product in 2017 when she came across an article or lawyer ad suggesting a link between Johnson's Baby Powder and ovarian cancer. (Ex. 33, Dep. of Hilary Converse, 40: 5-12; 41: 17-24; 176:7-2; 177:2-11.)

19. Ms. Gallardo did not know or suspect Defendants' wrongdoing or related causes of action until press coverage of a talc verdict in early 2016. (Ex. 34,

Dep. of Anna Gallardo, 88:18-25; 89:1-14.) Learning of this verdict, Ms. Gallardo first suspected that her cancer may have been caused by Defendants' products.

20. Ms. Gallardo originally filed her lawsuit in 2017. (Ex. 77, Gallardo 2017 Complaint.)

Dated: September 23, 2024

Respectfully submitted,

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